

United States District Court

Northern District of California

Jackson Family Farms, LLC v. Jerry Moore

EXHIBIT 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

Jackson Family Farms, LLC,

Petitioner,

vs.

Moore, Jerry,

Registrant.

CANCELLATION NO. 92082992

**REGISTRANT JERRY MOORE'S
AMENDED ANSWER TO AMENDED
PETITION FOR CANCELLATION**

In response to the Amended Petition for Cancellation filed by Jackson Family Farms, LLC ("Petitioner") in the above-referenced proceeding, Jerry Moore ("Registrant"), answers as follows. To the extent not explicitly admitted, all allegations in the amended petition for cancellation are denied.

AMENDED ANSWER TO AMENDED PETITION FOR CANCELLATION

In response to the preamble of the Amended Petition for Cancellation, Registrant is without sufficient knowledge or information to enable Registrant to admit or deny the allegations contained in the preamble, and on that basis denies such allegations.

1. The records of the United States Patent and Trademark Office ("PTO") regarding application number 97/384,930 speak for themselves. To the extent the first numbered paragraph contains additional allegations, Registrant denies them.

2. Registrant admits that the JET registration number 5109984 was registered in 2016 and the JETT registration number 4836946 was registered in 2015. Registrant denies the remaining allegations contained in Paragraph 2 of the Amended Petition for Cancellation.

REGISTRANT JERRY MOORE'S AMENDED ANSWER TO AMENDED PETITION FOR CANCELLATION -

Petitioner also contends that continued registration of the Registrant's JETT and JET Registrations will result in damage to Petitioner as "Petitioner's ability to use such mark will be uncertain." Petitioner is already using the mark JETT on wine, and has been since at least 2021, without authorization from Registrant. Petitioner cannot argue that it will be damaged by its inability to use the mark when it is *already* illegally using the mark. Registrant is the only party damaged.

Assertion of the defense of unclean hands "may result from any imaginable immoral or illegal conduct." See 3 J. Gilson Trademark Protection and Practice §8.12[13] (1999). Where the conduct alleged to have resulted in unclean hands relates to a plaintiff's acquisition, or attempt to acquire, a registration, the unclean hands defense goes to the plaintiff's ability to rely on its registration. See, e.g., *Gilbert/Robinson Inc. v. Carrie Beverage-Missouri Inc.*, 758 F.Supp. 512, 526, 19 USPQ2d 1481, 1489 (E.D. Mo. 1991). *Hornblower & Weeks Inc. v. Hornblower & Weeks Inc.*, 60 USPQ2d 1733, 1738 (TTAB 2001).

Fifth Affirmative Defense

Pursuant to Fed. R. Civ. P. 15(a)(2), Registrant has requested leave to amend his Answer via his Motion, as justice so requires, and asserts his Fifth Affirmative Defense of Estoppel. TBMP §§ 311.02(b)(1) ("[a]n answer may also include a short and plain statement of any defenses, including affirmative defenses that the defendant may have to the claim[s] asserted by the plaintiff. ... [including] unclean hands...and estoppel, ..., or any other matter constituting an avoidance or affirmative defense").

Registrant acquired the marks at issue, JETT and JET, from its Predecessor in late 2021, *after* Petitioner had begun illegally using the mark JETT and a year-and-a-half *before* Petitioner filed its Petition for Cancellation. Neither Registrant nor Registrant's Predecessor-in-Interest were aware of Petitioner's unauthorized use of the mark JETT until July 2024. Had either Registrant or Registrant's

Predecessor been aware of the unauthorized use, either would have filed for injunctive relief with a district court, which is not available in TTAB proceedings. Petitioner should not be rewarded for hiding its illegal activities for two + years from Registrant, Registrant's Predecessor, the USPTO and TTAB.


RESERVATION OF RIGHTS

Registrant reserves the right to rely on additional affirmative defenses and counterclaims that may become available or appear through discovery in this proceeding, and Registrant reserves the right to amend his Answer for the purposes of asserting such affirmative defenses and counterclaims.


WHEREFORE, Registrant prays that the Amended Petition for Cancellation and the relief sought therein be denied and dismissed in its entirety, with prejudice.

Dated: July 9, 2024

Respectfully submitted,


JERRY MOORE

I hereby certify that a true and complete copy of the foregoing Amended Answer to Amended Petition for Cancellation has been served on: Scott Gerien, Joy Durant, and Isabella Ramos, attorneys for Petitioner by forwarding said copy on July 9, 2024 via email to: tmltg@dpf-law.com, jdurand@dpf-law.com, iramos@dpf-law.com, bbarrera@dpf-law.com.


JERRY MOORE